

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

BENJAMIN E. NASH,

Plaintiff,

vs.

No. CV 20-01359 KG/GJF

THOMAS J. VILSACK¹

Secretary of Agriculture,

Defendant.

FINAL ORDER OF DISMISSAL AND SUMMARY JUDGMENT

On September 16, 2022, in a Memorandum Opinion and Order (Doc. 32), the Court granted Defendant's Motion to Dismiss (Doc. 21) and Defendant's Motion for Summary Judgment (Doc. 22), and now issues its final judgment disposing of the case.

IT IS ORDERED that:

1. Summary Judgment is entered in favor of Defendant Thomas J. Vilsack;
2. Plaintiff's claims against Defendant Thomas J. Vilsack under The Rehabilitation Act are dismissed with prejudice;
3. All Plaintiff's other claims against Defendant Thomas J. Vilsack are dismissed;

¹ As originally captioned, the Defendant was Sonny Perdue, Secretary of Agriculture. Now, Thomas J. Vilsack is Secretary of Agriculture and, as Sonny Perdue's successor, "is automatically substituted as a party." *See* Fed. R. Civ. P. 25(d).

- a. Plaintiff's civil rights claims against Defendant under § 1983, and his *Bivens* claims against Defendant in his official capacity are dismissed without prejudice;
 - b. Plaintiff's *Biven's* claims against Defendant in his individual capacity are dismissed with prejudice; and
 - c. Plaintiff's statutory claims against Defendant under the ADA and the NMHRA are dismissed without prejudice;
4. This lawsuit is now terminated in its entirety.


UNITED STATES DISTRICT JUDGE